

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

<p>NEUTRAL TANDEM, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>PEERLESS NETWORK, LLC, PEERLESS NETWORK of ILLINOIS, LLC, and JOHN BARNICLE,</p> <p style="text-align: center;">Defendants.</p> <hr/> <p>PEERLESS NETWORK, LLC, PEERLESS NETWORK of ILLINOIS, LLC, and JOHN BARNICLE,</p> <p style="text-align: center;">Counterclaim Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>NEUTRAL TANDEM, INC.</p> <p style="text-align: center;">Counterclaim Defendant</p>	<p>08 CV 3402</p> <p>Judge John Darrah</p> <p>Magistrate Judge Maria Valdez</p>
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**DEFENDANTS / COUNTERCLAIM PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Defendants-Counterclaim Plaintiffs Peerless Network, Inc., Peerless Network of Illinois, LLC, and John Barnicle (collectively, "Defendants"), by their attorneys, respectfully submit this motion for summary judgment on plaintiff's claim of infringement and Defendants' counterclaims for a declaration of non-infringement and invalidity of Neutral Tandem's ("NT") patent, United States Patent No. 7,123, 708 ("the '708 patent"). In support of this Motion, Defendants submit the following: Defendants' supporting memorandum of law, declarations and statement of material facts, and exhibits.

WHEREFORE, Defendants respectfully request that the Court grant summary judgment in their favor and against plaintiff on plaintiff's claim of infringement and that the Court enter a declaratory judgment that the '708 patent is invalid and that the defendants do not infringe any claim of the '708 patent.

Dated: May 28, 2010

Respectfully submitted,

/s/ Henry T. Kelly

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NEUTRAL TANDEM, INC.,  Plaintiff,  v.  PEERLESS NETWORK, LLC, PEERLESS NETWORK of ILLINOIS, LLC, and JOHN BARNICLE,  Defendants.	08 CV 3402  Judge John Darrah  Magistrate Judge Maria Valdez
PEERLESS NETWORK, LLC, PEERLESS NETWORK of ILLINOIS, LLC, and JOHN BARNICLE,  Counterclaim Plaintiffs,  v.  NEUTRAL TANDEM, INC.  Counterclaim Defendant	

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby deposes and states that he caused the foregoing Defendants-Counterclaim Plaintiffs Peerless Network, Inc., Peerless Network of Illinois, LLC, and John Barnicle's **Motion For Summary Judgment, Memorandum In Support Of Motion For Summary Judgment, and Statement Of Material Facts Pursuant To Local Rule 56.1 In Support Of Summary Judgment** to be filed with the Clerk of the Court on May 28, 2010, and served on all parties via the ECF system, pursuant to LR 5.9, as to Filing Users identified below. In addition, a copy of the above documents were also served on May 28, 2010 via messenger.

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